

00-*2*-0547

Entered - 09/14/99 - sb
CL99L0564 - DIANNE C. MITCHELL

CLAIM OF: DR. M. ELIZABETH HALLORAN,
through her attorney,
Steven L. Wright
3950 One Atlantic Center
1201 West Peachtree Street, NW
Atlanta, Georgia 30309

For damages alleged to have been sustained as a
result of property damage on August 17, 1999 at
1036 Rosedale Road, NE.

THIS ADVERSED REPORT IS
APPROVED

BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSED REPORT

COM *Public Safety*

DATE *4.11.00*

CH *C. T. Wright*

Michael S. Halloran
Att. Halloran

COM *P.S. & L.A.*

DATE *5/9/00*

CHM *HELD*

5/30/00

REFERRED BY
CITY COUNCIL
MAY 0 1 2000

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0564

Date: April 3, 2000

Claimant /Victim Dr. M. Elizabeth Halloran
BY: (Atty) Steven L. Wright
Address: 3950 One Atlantic Tower, 1201 West Peachtree Street, NW, Atlanta, GA 30309
Subrogation: _____ Claim for Property damage \$ not stated Bodily Injury \$ _____
Date of Notice: 09/07/99 Method: Written, proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 _____ X Ante Litem (6 Mo.) _____ X
Date of Occurrence 08/17/99 Place: 1036 Rosedale Road, NE
Department Public Works Division: Sewer Operations
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges her property was damaged due to a sewer back up. The investigation determined that the City had no notice of any problems with the sewer line prior to the call from the claimant. The City is immune from liability as set forth in O.C.G.A. §36-33-1.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
 Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other _____
 Traffic citations issued: City Driver _____ Claimant Driver _____
 Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ _____ Adverse ☒ Account charged: 1A01 _____ 2J01 _____ 2H01 _____
 Claims Manager: *[Signature]* Concur/date 04/02/00
 Committee Action: _____ Council Action _____

FERGUSON & SAUNDERS, LL^c

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

3950 ONE ATLANTIC CENTER

1201 WEST PEACHTREE STREET, N.W.

ATLANTA, GEORGIA 30309

404 876-3600

Mitchell
09/07/99
Du

TELEFAX 404 876-0410

ENTERED - 9-14-99 - SB
99L0564 - DIANNE MITCHELL

September 2, 1999

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

City of Atlanta
Municipal Clerk
55 Trinity Avenue
Atlanta, Georgia 30335-0332

Re: 1036 Rosedale Road, NE, Atlanta, Georgia 30306

Dear Sir or Madam:

We represent Dr. M. Elizabeth Halloran who owns the above property. On August 25, 1999, I spoke to Ms. Sherry Butler, who is, I believe, the Assistant Claims Secretary in the City of Atlanta's legal department. At her direction, I am writing to you regarding the damage and loss suffered by my client as a result of the backup of the City of Atlanta's sewer into the first floor of the house at 1036 Rosedale Road, occurring on or after the afternoon of Friday, August 13, and continuing through Tuesday, August 17, 1999.

The property owned by Dr. Halloran was built in 1982 and she purchased the property in 1989, thereafter undertaking extensive remodeling at a significant cost. The physical damage caused by the City of Atlanta's sewer is extensive, both as to the property itself and its contents. Not only was the interior of the house finished to a high standard but it contained expensive antique and other designer furniture, and an extensive art collection.

This letter is for the purposes of putting the City of Atlanta on notice that Dr. Halloran has a claim against the City for all costs and damages, whether physical or otherwise, resulting from the sewage backup. We are working with our client to establish the costs of demolition, sanitization, repair and renovation to the property, as well as the costs for removal of contents, their replacement cost (if a total loss) or their cleaning and restitution (where not), and all incidental costs including Dr. Halloran's personal expenses, costs and damages.

to respond and allow access to those documents and files as requested. The documents and files requested herein include, but are not limited to, electronically or computer generated, created or stored documents and files. These should be produced and allowed to be copied in the same electronic form as you employ or maintain as provided by O.C.G.A. § 50-18-70(g). All items requested must be produced even if you never conveyed them outside your office.

If you object to the production of any document or file requested herein, you are required by O.C.G.A. § 50-18-72(h) to specify and respond to the undersigned in writing the specific legal authority exempting such record or records from disclosure. If you are unable to produce the requested documents for inspection and copying within the above time period, you must provide a written listing of the documents not available and a time schedule within which they will be produced.

Our firm will provide for photocopying or reimbursement for photocopying. Please advise what will be necessary to provide to acquire copies of any electronic or computer files.

I look forward to fully resolving this matter for our client, Dr. Halloran, with the City of Atlanta. Ms. Butler had advised me that once an adjuster had been assigned for this matter, we would be contacted, and that additional information on damages could be added to Dr. Halloran's file as this matter progressed. As a result I am not hesitating in giving notice to the City of Dr. Halloran's claims at this time.

Sincerely,



Kevin J. Saunders

KJS/plw

Enclosure

Cc: Ms. Sherry Butler, Assistant Claims Secretary (via US Certified Mail)
Dr. M. Elizabeth Halloran

00-*R*-0547

**ITEMS
REMOVED
FROM
CONSENT AGENDA**

I.D.#: 00-R-0547

PAGE: 7

BY: Cathy Woolard

COMMITTEE: Public Safety

DATE: May 1, 2000